

### **DETAILED ACTION**

1. Applicant's amendment filed on 11/19/2009 has been considered and entered for the record.

### **Preliminary Remarks**

2. Applicant's amendment overcomes the 35 USC 112 second paragraph rejection in paragraph 7 of the Office Action mailed on 07/21/2009 and overcomes the 35 USC 102(b) rejection in paragraph 11 of the Office Action mailed on 07/21/2009. Finally, Applicant's amendment overcomes the 35 USC 103(a) rejection in paragraphs 19, 25, 28, 31, 34, 38 and 41 of the Office Action mailed on 07/21/2009.

3. Claims 38, 40-44, 46, 47, 50, 51, 53, 55-57, 6, 61 and 63-65 are pending further examination upon the merits.

### ***Election/Restrictions***

4. Claims 38, 40-44, 46, 47, 50, 51, 53, 55-57, 6, 61 and 63-65 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 66, 67, 69, 70, 72-76 and 79-81, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action**

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**mailed on 08/19/2008 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### ***Specification***

5. Regarding the objection to the specification in paragraph 5 of the Office action mailed on 07/21/2009, Applicant's amendment overcomes this objection to the specification.

6. Regarding Applicant's amendment to the specification on 03/15/2005, this has been considered and entered for the record.

### **REASONS FOR ALLOWANCE**

7. The following is an examiner's statement of reasons for allowance: for claims 37 and 43, the prior art fails to teach or fairly suggest a device for treating a biological material that has an interior with an electrode in contact with the interior space. Also, an inlet line is close to the electrode and is connected to a reservoir that is formed by a wall within the interior of the treatment device. Further, the reservoir and the interior of the

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treatment device are separated by a separation wall that can be broken (is frangible) by a mechanical impact. Finally, the container is where the interior is separated into two compartments and includes a second container that is connected to the biological treatment device.

8. For claim 66, the prior art fails to teach or fairly suggest a method of treating a biological material that includes using a divided interior chamber that has an opening near an electrode where the electrode applies an electric field to the sample material once this material comes into contact with the interior electrode. Also, the step of introducing this material into the inner space and once an electric field has been generated, rinsing out this space with a solution from the reservoir that is connected to the inner space by an inlet line. The prior art further fails to teach or fairly suggest the step of using a separating unit that can be broken by a mechanical impact and where the biological material and solution are introduced into a container through an outlet that connects the container with the inner space.

9. The prior art therefore fails to teach or fairly suggest, either alone or in combination, the limitations of the above claims of the instant application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL HOBBS whose telephone number is

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(571)270-3724. The examiner can normally be reached on Monday-Thursday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Marcheschi can be reached on (571) 272-1374. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Beisner/  
Primary Examiner, Art Unit 1797

/M. H./  
Examiner, Art Unit 1797